

August 5, 2009

Division of Global Migration and Quarantine  
Centers for Disease Control and Prevention  
U.S. Department of Health and Human Services  
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**Docket ID: CDC-2008-0001**

**Docket Title: Medical Examination of Aliens – Removal of Human  
Immunodeficiency Virus (HIV) Infection from Definition of  
Communicable Disease of Public Health Significance**

**RIN: 0920-AA26**

The International Community of Women Living with HIV/AIDS (ICW), a registered UK charity, is the only international network run for and by HIV positive women. ICW has membership of more than 6000 HIV positive women living with HIV from over 128 countries supports the proposed rule that would lift the immigration ban on visitors and immigrants living with HIV, stop unfair mandatory HIV testing of immigrants and remove references to HIV from the scope of examinations in its regulations. ICW believes this proposed rule, once implemented, will have individual, national and global significance.

**Our comments are organized thematically:**

**1. ICW believes there is no scientific or public health justification for HIV-related restrictions on entry, stay, and residence.**

According to the U.S. government's own agencies, HIV is transmitted through bodily fluids, is not airborne and is not transmitted through casual contact.

Public health officials within the United States have acknowledged that there is no public health justification for excluding people with HIV. When commenting on its own HIV-specific restrictions in 1991, the Centers for Disease Control and Prevention (CDC) stated: "The risk of (or protection from) HIV infection comes not from the nationality of the infected person, but

from the specific behaviors that are practiced. Again, a careful consideration of epidemiological principles and current medical knowledge leads us to believe that allowing HIV-infected aliens into this country will not impose a significant additional risk of HIV infection to the U.S. population, where prevalence of HIV is already widespread.”<sup>1</sup> From a public health perspective, encouraging people living with HIV to take antiretroviral drugs minimizes the likelihood of developing drug resistance by not skipping doses. In surveys done over the past decade, it appears HIV-specific entry and immigration restrictions have pressured some people to conceal their HIV status from U.S. immigration authorities by not bringing HIV medicines with them on international trips. Repealing this ban will allow HIV-positive travelers to continue their medication uninterrupted.

**2. ICW believes the current US restrictions on entry, stay and residence based on HIV status are discriminatory.**

Since there is no evidence that entry and residence restrictions based on HIV status are an effective public health strategy, the differential treatment based on HIV status is discriminatory and not justified. The current US policy promotes discrimination against HIV-infected immigrants and causes many immigrants to avoid HIV testing or treatment for fear of deportation and stigma.

This regrettable policy contradicts the historical leadership position of the United States in science, research and development, public health and in the global fight against AIDS. The current policy prevents or hinders people living with HIV, ironically including those who have benefited from the U.S. President's Emergency Plan for AIDS Relief (PEPFAR), from entering the United States and participating in critical meetings that shape global HIV policy and research. Because of this policy, important public health meetings and HIV conferences such as those hosted by the International AIDS Society have not been held in the United States since 1990.

**3. ICW believes enforcement of HIV-related restrictions on entry; stay and residence can, and does, violate other human rights.**

The implementation of HIV-related restrictions on entry, stay, and residence can also interfere with the rights to life, privacy, liberty, work and as CDC

**4. ICW believes HIV-related restrictions on entry, stay and residence can impede effective responses to HIV and fuel HIV Stigma.**

Since the beginning of the epidemic, it has been repeatedly recognized that it is essential to protect the rights and dignity of people living with HIV and to involve them in the response to HIV not only because it is right but because it leads to the most effective responses to HIV. This has been confirmed by governments in the Declaration of Commitment on HIV/AIDS (2001)<sup>2</sup> and the Political Declaration on HIV/AIDS (2006).<sup>3</sup> The Joint United Nations Programme on HIV/AIDS (UNAIDS) established an international task team on HIV-related travel restrictions and found that HIV-related restrictions on entry, stay and residence might be harmful to the public health of both citizens and travelers because they:

Misdirect resources into intimidating screening and enforcement activities versus using these resources to expand voluntary HIV counseling and testing, prevention, treatment and care;

Drive HIV prevention and care issues, as well as those *living* with HIV, underground, with negative outcomes for both individual and public health.

The US Government invests its expertise and resources to reduce HIV/AIDS stigma through programmes like PEPFAR, the Global Fund to Fight AIDS, TB and Malaria and other domestic and international programmes. The proposed rule will align the US Government with its expressed commitment to reducing HIV stigma.

ICW as a global network of HIV positive women in all regions of the world sees HIV-related restrictions on entry, stay, and residence as discriminatory practice that affects us directly. It is a violation of our rights and impedes on our ability to act, speak and advocate in our own behalf.

For these reasons, ICW fully supports the removal of HIV from the definition of "communicable diseases of public health significance" as well as to remove references to "HIV" from the scope of examinations in its regulations.

The US Government is the global leader in funding HIV research and implementation of evidence-based HIV prevention, care and treatment programmes. The proposed rule will align the US Government with the US scientific and public health communities' leadership in international HIV policy and global health.

If we can provide any further clarification on our comments, please do not hesitate to contact us.

Yours sincerely,

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